

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

JOSUE ROMERO, on behalf of himself and all
others similarly situated,

Plaintiffs,

v.

ZIP TOP, LLC,

Defendant.

Declaration of Robert D. Moody

I, Robert D. Moody, declare that I have read the foregoing instrument and the facts and information stated in it are true and correct to the best of my knowledge. I am personally acquainted with the facts stated herein.

1. Presently, I am the President, CEO and Founder of Forensic Data Services (d/b/a FDS Global) (hereafter referred to as FDS) which is based in Broward County, Florida. I am the principal investigator at FDS and frequently testify as an expert in the fields of information systems auditing, information security and computer forensics.

2. I have testified in both State and Federal Courts as an expert in the fields of information systems auditing, information security and computer forensics. My CV is attached as **Exhibit A**.

3. I have experience and training in web design, layout, coding, auditing, and testing of functionality, security, and operability of websites and related content. To date, I have audited more than 800 websites including sites for major industries that operate on many different platforms.

4. In addition, I have identified websites that were both WCAG compliant as well as WCAG non-complaint. For the websites that were found to be non-compliant, Defendants have often relied on my declaration and attachments to bolster remediation efforts and effectively correct issues often faced by Defendants.

5. My company was retained by counsel for Plaintiff, Josue Romero, to provide consulting services and to conduct an audit of a website for compliance, usability, and accessibility standards (WCAG 2.0 and 2.1) as well as general functionality analysis for disabled users.

6. In the present matter, FDS along with me as principal investigator, evaluated the website known as www.ziptop.com. My evaluation was to determine if any issues existed that could not be overcome and, as such acted as barriers to Plaintiff's use of the website as a visually impaired user of the internet.

7. As part of my retention, I independently evaluated the website and determined issues with the identified website do exist and moreover, those issues are a barrier to individuals with low to no vision.

8. Some of issues identified include the following:

- a. The company logo acts as a link designed to take the user from wherever they may be within the Defendant's website to the homepage of that site. For this website, the link is not properly labeled and where the link ("logo") will operate properly (taking the user back to the home page), the missing label prevents the user (visually impaired) to interpret the logo/link and in the case of using a screen reader, the screen reader software cannot properly interpret the logo/link effectively hiding the purpose of that link from the user.
- b. Site element like color options is inaccessible with a keyboard. The first color option is read leaving the user to understand the first color is the only color available for the product.
- c. Site element like Contact Us is not properly labeled to integrate with a screen reader. The cursor skips the text that is not labeled and reads only the email address with no description or association as to what department the email address will be sent to.
- d. Site element such as text located on the website that describes the product or purpose of the site is not labeled to integrate with a screen reader causing the user to lose out on information that a person with normal vision can see and read for themselves.

9. Accordingly, I reserve the right to update, alter, change, and delete, supplement or file an addendum to this declaration if additional material is made available to me and where such material may impact my opinion.

Declarant further sayeth not.

Under penalty of perjury, I hereby affirm that the foregoing statements are true and correct.

Respectfully submitted on, October 20, 2020












Robert D. Moody

Robert D. Moody

This tab shows accessibility issues, indicating problems for older users, people with disabilities or accessibility needs. Automated testing cannot detect all accessibility issues, so should be used alongside human testing.

Level **WCAG 2 Section 508 - 2017 PDF Matterhorn 1.02**


Key


A				 Pages with level A issues are unusable for some people
AA				 Pages with level AA issues are very difficult to use
AAA				 Pages with level AAA issues can be difficult to use

Prior	Description and URL	Guideline and Line#	Count
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Level A

7 issues on 124 pages

	Each A element must contain text or an IMG with an ALT attribute.	WCAG 2.0 A F89 Section 508 (2017) A F89	124 pages
	Add text to the link, or ALT text if the link contains an image. If there is no link text or the ALT text is blank, screen readers have nothing to read, so read out the URL instead.		
	https://ziptop.com/	Line 1509	
	https://ziptop.com/account/login	Line 1514	
	https://ziptop.com/apps/help-center	Line 1511	
	https://ziptop.com/apps/help-center#!what-is-your-return-policy	Line 1511	
	https://ziptop.com/cart	Line 1512	
	https://ziptop.com/collections/all	Line 1521	
	https://ziptop.com/collections/all/products/full-set?variant=14206807375914	Line 1526	
	https://ziptop.com/collections/all/products/full-set?variant=31429987237930	Line 1526	
	https://ziptop.com/pages/about-zip-top	Line 1513	
	https://ziptop.com/pages/contact-us	Line 1512	
	https://ziptop.com/pages/current-promotion-details	Line 1512	
	https://ziptop.com/pages/knockoffs	Line 1513	
	https://ziptop.com/pages/store-locator	Line 1513	
	https://ziptop.com/pages/terms-and-conditions	Line 1513	

Prior	Description and URL	Guideline and Line#	Count
	https://ziptop.com/products/baby-bear	Line 1526	
	https://ziptop.com/products/bag-set	Line 1526	
	https://ziptop.com/products/cup-set	Line 1526	
	https://ziptop.com/products/dish-set	Line 1526	
	https://ziptop.com/products/full-set	Line 1526	
	https://ziptop.com/products/milk-bag-set	Line 1526	
	This issue was found on another 104 pages. You can change the number of pages shown for each issue using the Options menu command in the desktop edition or the Edit Scan button in the OnDemand edition.		
	<p>Ensure that all information conveyed with color is also available without color, for example from context or markup. This style only contains a color change.</p> <p>Ensure that each CSS style contains style properties other than color and background-color.</p>	<p>WCAG 2.0 A 1.4.1 Section 508 (2017) A 1.4.1</p>	124 pages
	https://ziptop.com/	Line 949 962 4237	
	https://ziptop.com/account/login	Line 954 967 2026	
	https://ziptop.com/apps/help-center	Line 951 964 2444 2461 2470 ...	
	https://ziptop.com/apps/help-center#!what-is-your-return-policy	Line 951 964 2444 2461 2470 ...	
	https://ziptop.com/cart	Line 952 965 2047	
	https://ziptop.com/collections/all	Line 961 974 8829 8923	
	https://ziptop.com/collections/all/products/full-set?variant=14206807375914	Line 966 979 3161 3528	
	https://ziptop.com/collections/all/products/full-set?variant=31429987237930	Line 966 979 3161 3528	
	https://ziptop.com/pages/about-zip-top	Line 953 966 1974	
	https://ziptop.com/pages/contact-us	Line 952 965 1970	
	https://ziptop.com/pages/current-promotion-details	Line 952 965 2010	
	https://ziptop.com/pages/knockoffs	Line 953 966 1950	
	https://ziptop.com/pages/store-locator	Line 953 966 1921	
	https://ziptop.com/pages/terms-and-conditions	Line 953 966 1964	
	https://ziptop.com/products/baby-bear	Line 966 979 2889	
	https://ziptop.com/products/bag-set	Line 966 979 3073 3425	
	https://ziptop.com/products/cup-set	Line 966 979 3167 3520	
	https://ziptop.com/products/dish-set	Line 966 979 3122 3475	
	https://ziptop.com/products/full-set	Line 966 979 3151 3504	

Prior	Description and URL	Guideline and Line#	Count
	https://ziptop.com/products/milk-bag-set This issue was found on another 104 pages. You can change the number of pages shown for each issue using the Options menu command in the desktop edition or the Edit Scan button in the OnDemand edition.	Line 966 979 2908	
●	Removing the underline from links makes it hard for color-blind users to see them. Remove the text-decoration:none property from your link styles, or add other non-color style attributes to visually distinguish links. https://ziptop.com/apps/help-center https://ziptop.com/apps/help-center#!what-is-your-return-policy	WCAG 2.0 A F73 Section 508 (2017) A F73 Line 2231 2440 Line 2231 2440	2 pages
●	This form control has no LABEL and no programmatically determined name. A programmatically determined name allows screen readers to tell the user what the control does. To add a name do one of the following: <ul style="list-style-type: none"> • Use a LABEL element with the FOR attribute set to the ID of the form control • Wrap a LABEL element around the form control • Add a TITLE attribute • Add an ARIA-LABELLEDBY attribute (not supported in all screen readers) • Add an ARIA-LABEL attribute (not supported in all screen readers) INPUT elements labelled with the ARIA-LABEL attribute don't work in: <ul style="list-style-type: none"> • SaToGo with IE11 (the previous heading is read instead of the label) 	WCAG 2.0 A F68 Section 508 (2017) A F68 Line 2813 Line 2813 Line 2786 Line 2786 Line 2880 Line 2833	113 pages
	https://ziptop.com/apps/help-center https://ziptop.com/apps/help-center#!what-is-your-return-policy https://ziptop.com/collections/all/products/bag-set?variant=31064505745450 https://ziptop.com/collections/all/products/bag-set?variant=31064505810986 https://ziptop.com/collections/all/products/cup-set?variant=31064528289834 https://ziptop.com/collections/all/products/dish-set?variant=31064541626410	Line 2813 Line 2813 Line 2786 Line 2786 Line 2880 Line 2833	

Prio	Description and URL	Guideline and Line#	Count
	https://ziptop.com/collections/all/products/dish-set?variant=31064541659178	Line 2833	
	https://ziptop.com/collections/all/products/full-set?variant=14206807375914	Line 2864	
	https://ziptop.com/collections/all/products/full-set?variant=31429987237930	Line 2864	
	https://ziptop.com/collections/all/products/large-dish?variant=31064543526954	Line 3283	
	https://ziptop.com/collections/all/products/medium-dish?variant=31064542871594	Line 3283	
	https://ziptop.com/collections/all/products/sandwich-bag?variant=31064504991786	Line 3236	
	https://ziptop.com/collections/all/products/small-dish?variant=31064542216234	Line 3283	
	https://ziptop.com/collections/all/products/snack-bag?variant=31064502206506	Line 3236	
	https://ziptop.com/products/baby-bear	Line 2293	
	https://ziptop.com/products/bag-set	Line 2776	
	https://ziptop.com/products/cup-set	Line 2870	
	https://ziptop.com/products/dish-set	Line 2823	
	https://ziptop.com/products/full-set	Line 2854	
	https://ziptop.com/products/milk-bag-set	Line 2305	

This issue was found on another 93 pages. You can change the number of pages shown for each issue using the Options menu command in the desktop edition or the Edit Scan button in the OnDemand edition.

- This page has duplicate IDs which cause problems in screen readers. [WCAG 2.0 A F77](#) [Section 508 \(2017\) A F77](#) 1 pages


Two or more elements on this page share the same ID, which cause problems in screen readers which use IDs for labeling controls and table headings. This also causes problems in JavaScript methods like getElementById and querySelector, which behave inconsistently when duplicate IDs are present. Change the ID so it is unique for each element.

<https://ziptop.com/collections/all> Line [3286](#)

- This page has markup errors, causing screen readers to miss content. [WCAG 2.0 A F70](#) [Section 508 \(2017\) A F70](#) 3 pages




Fix the errors listed on the Standards tab of this report. Markup errors like missing end tags mean screen readers may skip important content.



<https://ziptop.com/apps/help-center>

Prior	Description and URL	Guideline and Line#	Count
		Line 2499 2501 4396 4705 4709 ...	
	https://ziptop.com/apps/help-center#!what-is-your-return-policy	Line 2499 2501 4396 4705 4709 ...	
	https://ziptop.com/collections/all	Line 3286	
	Using ALT text which duplicates link text in the same link or the following link results in screen readers stuttering as the same text is read out twice. Use ALT=" when the image is part of a link containing text, or change the redundant ALT text if the links are separate.	WCAG 2.0 A H2 Section 508 (2017) A H2	15 pages
	https://ziptop.com/collections/all/products/baby-4-set?variant=31457778892842	Line 2174 2185 2196 2207	
	https://ziptop.com/collections/all/products/baby-bear?variant=31064562827306	Line 2260 2271 2282 2293	
	https://ziptop.com/collections/all/products/baby-cat?variant=31064558665770	Line 2260 2271 2282 2293	
	https://ziptop.com/collections/all/products/baby-dog?variant=31064566497322	Line 2260 2271 2282 2293	
	https://ziptop.com/collections/all/products/baby-pig?variant=31064567021610	Line 2260 2271 2282 2293	
	https://ziptop.com/products/baby-4-set	Line 2164 2175 2186 2197	
	https://ziptop.com/products/baby-4-set?variant=31457778892842	Line 2164 2175 2186 2197	
	https://ziptop.com/products/baby-bear	Line 2250 2261 2272 2283	
	https://ziptop.com/products/baby-bear?variant=31064562827306	Line 2250 2261 2272 2283	
	https://ziptop.com/products/baby-cat	Line 2250 2261 2272 2283	
	https://ziptop.com/products/baby-cat?variant=31064558665770	Line 2250 2261 2272 2283	
	https://ziptop.com/products/baby-dog	Line 2250 2261 2272 2283	
	https://ziptop.com/products/baby-dog?variant=31064566497322	Line 2250 2261 2272 2283	
	https://ziptop.com/products/baby-pig	Line 2250 2261 2272 2283	
	https://ziptop.com/products/baby-pig?variant=31064567021610	Line 2250 2261 2272 2283	

Level AA


5 issues on 4 pages


Prior	Description and URL	Guideline and Line#	Count
	<p>Ensure that foreground and background colors have enough contrast.</p> <p>Some users find it hard to read light gray text on a white background, dark gray text on a black background and white text on a red background.</p> <ul style="list-style-type: none"> The contrast ratio should be 3.0 or more for 18 point text, or larger The contrast ratio should be 3.0 or more for 14 point bold text, or larger The contrast ratio should be 4.5 or more for all other text <p>The foreground to background color contrast ratio is: 4.1 with color: rgb(255,255,255); background-color: rgb(213,81,24); font-size: 12pt; font-weight: 400 3.3 with color: rgb(255,255,255); background-color: rgb(0,151,207); font-size: 12pt; font-weight: 400 3.3 with color: rgb(255,255,255); background-color: rgb(0,151,207); font-size: 12pt; font-weight: 400 https://ziptop.com/apps/help-center</p> <p>The foreground to background color contrast ratio is: 4.1 with color: rgb(255,255,255); background-color: rgb(213,81,24); font-size: 12pt; font-weight: 400 3.3 with color: rgb(255,255,255); background-color: rgb(0,151,207); font-size: 12pt; font-weight: 400 3.3 with color: rgb(255,255,255); background-color: rgb(0,151,207); font-size: 12pt; font-weight: 400 https://ziptop.com/apps/help-center#!what-is-your-return-policy</p>	<p>WCAG 2.0 AA 1.4.3 Section 508 (2017) AA 1.4.3</p> <p>Line 2307 2460 2461</p> <p>Line 2307 2460 2461</p>	2 pages
	<p>Form field labels should be unique on a page, or enclosed in a FIELDSET with a LEGEND that makes the label unique.</p> <p>When a form contains items with the same label, screen reader users find it difficult to tell them apart. Adding a fieldset with a legend differentiates the controls, because the legend text is announced along with the label text. For example: <legend> Gift wrapped: </legend> <label> Yes </label> <label> No </label> <legend> Express delivery: </legend> <label> Yes </label> <label> No </label></p> <p>Label used: &#13;&#10;Email &#13;&#10;Email https://ziptop.com/account/login</p>	<p>WCAG 2.0 AA 2.4.6 Section 508 (2017) AA 2.4.6</p> <p>Line 1893 1969</p>	1 pages
	<p>Headings should not be empty.</p> <p>Add text to the heading, or ALT text if the heading contains an image. Screen readers read out page headings, allowing users to quickly skip to a section, but</p>	<p>WCAG 2.0 AA G130 Section 508 (2017) AA G130</p>	1 pages

Prior	Description and URL	Guideline and Line#	Count
	<p>some older screen readers do not ignore empty headings.</p> <p>Impact on users:</p> <ul style="list-style-type: none"> SaToGo 3.4.96.0 IE11 Windows 7 Heading: Reads following paragraph as heading. <p>https://ziptop.com/</p>	Line 1505	
	<p>This CSS style makes it difficult or impossible to see the dotted link focus outline.</p> <p>Change the style to avoid obscuring the focus outline around A elements, which is used when tabbing through links. Using a border or outline style that obscures the focus ring causes problems for keyboard-only users in: Chrome (obscures the focus indicator on links, buttons, dropdowns and range controls) Firefox (obscures the focus indicator on links) Internet Explorer (obscures the focus indicator on links, buttons and range controls)</p> <p>https://ziptop.com/apps/help-center</p> <p>https://ziptop.com/apps/help-center#!what-is-your-return-policy</p>	<p>WCAG 2.0 AA F78 Section 508 (2017) AA F78</p> <p>Line 2138</p> <p>Line 2138</p>	2 pages
	<p>Use relative rather than absolute units in CSS property values.</p> <p>Absolute units are CM, MM, IN, PC and PT. When used with fonts PX is also considered an absolute unit, because it isn't relative the user's preferred font size. Low-vision users, and a lot of people over 50, increase the browser default font size to make text easier to read. Absolute units ignore this user choice. Relative units like EM and percentages "stretch" according to the screen size and/or user's preferred font size, and work on a large range of devices.</p> <p>https://ziptop.com/apps/help-center</p> <p>https://ziptop.com/apps/help-center#!what-is-your-return-policy</p>	<p>WCAG 2.0 AA 1.4.4 Section 508 (2017) AA 1.4.4</p> <p>Line 2196 2212 2220 2257 2402 ...</p> <p>Line 2196 2212 2220 2257 2402 ...</p>	2 pages

Level AAA

2 issues on 5 pages

	<p>Avoid specifying a new window as the target of a link with target="_blank".</p> <p>Displaying new windows without warning can be very confusing to non-sighted and mobile users. Some screen</p>	WCAG 2.0 AAA F22	3 pages
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Prior	Description and URL	Guideline and Line#	Count
	readers and mobile devices give very little indication a new tab or window has opened. If you cannot avoid displaying a new window, insert a warning into the link text like the following: "opens in a new window".		
	https://ziptop.com/apps/help-center	Line 4044 4143	
	https://ziptop.com/apps/help-center#!what-is-your-return-policy	Line 4044 4143	
	https://ziptop.com/pages/about-zip-top	Line 1938 1942	
	Several links on a page share the same link text, but go to different destinations.	WCAG 2.0 AAA 2.4.9	4 pages
	Make the link text unique for each target, or add additional text using aria-label.		
	Link text: Contact https://ziptop.com/apps/help-center	Line 4310 4925	
	Link text: Contact https://ziptop.com/apps/help-center#!what-is-your-return-policy	Line 4310 4925	
	Link text: Continue shopping https://ziptop.com/cart	Line 1872 2013	
	Link text: Dish Set https://ziptop.com/collections/all	Line 2340 2595 2850 3259 4606 ...	